

***DIVISION IV: FOREST AND TREE CONSERVATION*****SUBTITLE 41****DEFINITIONS; GENERAL PROVISIONS****§ 41-1. Definitions.**(a) *In general.*

In this Division IV, the following terms have the meanings indicated.

(b) *Afforestation.*

“Afforestation” means:

- (1) the establishment of forest cover on an area from which it has always or very long been absent, or
- (2) the planting of open areas which are not presently in forest cover; and
- (3) establishment of a forest according to procedures set forth in the Baltimore City Forest Conservation Manual.

(c) *Baltimore City Forest Conservation Manual.*

“Baltimore City Forest Conservation Manual” (“Manual”) includes the State Forest Conservation Manual and the Baltimore City Forest Conservation Supplement to the State Forest Conservation Manual.

(d) *Clear.*

“Clear” means removal of any woody plant, wherein the stump and root mass are physically removed.

(e) *Cut.*

“Cut” means the removal of a woody plant, wherein the stump and root mass remain in place and intact.

(f) *Declaration of intent.*

“Declaration of intent” means a document whose purpose is to verify that the proposed activity is exempt under the provisions of the Natural Resources Article and this Division IV.

(g) *Department.*

“Department” means the Baltimore City Department of Planning.

(h) *Forest.*

“Forest” includes:

- (1) a biological community dominated by trees and other woody plants covering a land area of 4,000 square feet or greater. This area must have a live tree density of at least 100 trees per acre, with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground;
- (2) areas that have been cut, but not cleared; and
- (3) “forest” does not include orchards or Christmas tree plantations.

(i) *Forest conservation.*

“Forest conservation” means the retention of existing forest or the creation of new forest as prescribed by the Department of Planning and the Baltimore City Forest Conservation Manual.

(j) *Forest conservation plan.*

“Forest conservation plan” means a plan approved pursuant to Subtitles 42 and 44 of this Division IV and the requirements of the Baltimore City Forest Conservation Manual.

(k) *Forest stand delineation.*

“Forest stand delineation” means the description of the existing vegetation on a site proposed for development, prepared according to the requirements of the Baltimore City Forest Conservation Technical Manual and this Division IV.

(l) *Person.*

“Person” includes the federal government, the state, any county, municipal corporation, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

(m) *Reforest; reforestation.*

“Reforest” or “reforestation” means to create a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground within 5 years and includes afforestation or establishment of a forest according to procedures set forth in the Baltimore City Forest Conservation Manual.

(n) *Regulated activity.*

“Regulated activity” means any activity subject to the requirements of § 42-1 of this Division IV.

(o) *Retention.*

“Retention” means the deliberate holding and protecting of existing trees, shrubs, or plants on the site according to established standards in the Baltimore City Forest Conservation Manual.

(p) *Tree*.

“Tree” means a large, woody plant having 1 or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

(*City Code, 1976/83, art. 9A, §1-1(a), (b), (d), (f) - (l), (p) - (s), (v).*) (*Ord. 93-170.*)

**§ 41-2. Statutory references.**

Whenever a provision of this Division IV refers to any portion of the Maryland Code, the Code of Maryland Regulations {*COMAR*}, and the State Forest Conservation Manual, the reference applies to any subsequent amendment to that portion of the code, regulations, or manual unless the referring provision expressly provides otherwise.

(*City Code, 1976/83, art. 9A, §1-2.*) (*Ord. 93-170.*)

**§ 41-3. Scope of Division — in general.**

Except as provided in § 41-4 of this subtitle, this Division IV applies to:

- (1) any person making application for a grading or sediment and erosion control permit on a parcel of land 20,000 square feet or greater;
- (2) any person making application for a subdivision or development plan on a parcel of land greater than 20,000 square feet;
- (3) any person applying after January 1, 1993, for subdivision or site plan approval less than 5 years after the area has been cut; and

- (4) a public utility not exempt under § 41-4(b)(3) of this subtitle.

(*City Code, 1976/83, art. 9A, §2-1.*) (*Ord. 93-170.*)

**§ 41-4. Scope of Division — exemptions.**(a) *Definitions*.

- (1) *Commercial logging or timber harvesting operations*.

“Commercial logging or timber harvesting operations” means those activities which result in the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.

(2) *Timber harvesting.*

- (i) “Timber harvesting” means a tree-cutting operation affecting 1 or more acres of forest or developed woodland within a 1-year interval that disturbs 5,000 square feet or more of forest floor.
- (ii) “Timber harvesting” does not include grubbing and clearing of root mass.

(b) *Exempted activities.*

This Division IV does not apply to:

- (1) any highway construction activity that is subject to State Natural Resources Article § 5-103;
- (2) commercial logging and timber harvesting operations, subject to the forest conservation and management program under State Tax-Property Article § 8-211:
  - (i) that were completed before July 1, 1991; or
  - (ii) were completed on or after July 1, 1991, on property which:
    - (A) is the subject of a declaration of intent signed by the land owner and approved by the Department of Public Works and the Maryland Department of Natural Resource’s Project Forester’s Office as provided in COMAR 08.19.01.05; and
    - (B) has not been the subject of an application for a grading permit for development within 5 years after a logging or timber harvesting operation, but after this 5-year period the property shall be subject to this Division IV;
- (3) the cutting or clearing of public utility rights-of-way or land for electric generating stations licensed under Article 78, §§ 54A, 54B, or 54-I of the Maryland Code if:
  - (i) required certificates of public convenience and necessity have been issued in accordance with State Natural Resources Article § 5-1603(f); and
  - (ii) the cutting or clearing of the forest is conducted so as to minimize the loss of forest;

- (4) routine maintenance or emergency repairs of public utility rights-of-way, if:
  - (i) the right-of-way existed before the effective date of the State or this program; or
  - (ii) the right-of-way's initial construction was approved under this Division IV;
- (5) any noncoal surface mining regulated under Title 7, Subtitle 6A, of the State Natural Resources Article;
- (6) any preliminary plan of subdivision or any grading or sediment control plan approved before July 1, 1991;
- (7) areas covered by the Chesapeake Bay Critical Area Protection Law;
- (8) a real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, a portion of a lot or parcel, if:
  - (i) the transfer does not involve a change in land use or new development or development, with associated land disturbing activities; and
  - (ii) both the grantor and grantee file a declaration of intent;
- (9) any activity conducted on a single lot of any size provided that the activity:
  - (i) does not result in the cumulative cutting or clearing of 20,000 square feet or greater of forest; and
  - (ii) does not include an application for a grading or sediment and erosion control permit for disturbance of 20,000 square feet or greater; or
- (10) an activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child or a grandchild of the owner, if the activity:
  - (i) does not result in the cumulative cutting or clearing of 20,000 square feet or greater of forest;
  - (ii) does not include an application for a grading or sediment and erosion control permit of 20,000 square feet or greater; and

(iii) is the subject of a declaration of intent filed with the Department pursuant to § 42-7 of this Division IV.  
(*City Code, 1976/83, art. 9A, §1-1(e), (t) and §2-2.*) (*Ord. 93-170.*)

**SUBTITLE 42**  
**GENERAL REQUIREMENTS**

**§ 42-1. In general.**

(a) *Required delineations, plans, and methods.*

Any person subject to this Division IV:

(1) shall submit to the Department:

- (i) a forest stand delineation for the property on which the development is located according to guidelines set forth in the Baltimore City Forest Conservation Manual and this Division IV; and
- (ii) a forest conservation plan for the property on which the development is located according to guidelines set forth in the Manual and this Division IV; and

(2) shall use methods provided in the Manual to protect retained forest and trees during construction.

(b) *City agencies using state funds.*

If a City agency using state funds makes application to conduct a regulated activity, the provisions of COMAR 08.19.04.01D - G apply.  
(*City Code, 1976/83, art. 9A, §3-1.*) (*Ord. 93-170.*)

**§ 42-2. Preparation of plans.**

The forest stand delineation, the forest conservation plan, including preliminary and final plan, and the afforestation plan shall be prepared by a licensed forester, licensed landscape architect, or other qualified professional as provided in COMAR 08.19.06.01B.  
(*City Code, 1976/83, art. 9A, §3-2.*) (*Ord. 93-170.*)

**§ 42-3. Authorized signatory.***(a) Who must sign.*

The forest stand delineation, preliminary and final forest conservation plans and afforestation/reforestation plans shall be signed by:

- (1) an officer of the corporation or an authorized agent of a corporation;
- (2) an authorized official of a federal, state, or local government;
- (3) a partner of an association or partnership; or
- (4) an individual applicant.

*(b) Responsibility of signatory.*

The individual who signs an application is responsible for the truth, accuracy, and completeness of all information in the application.

*(City Code, 1976/83, art. 9A, §3-6.) (Ord. 93-170.)*

**§ 42-4. Review.**

The Department shall review an application for a forest stand delineation, forestation and deforestation plans, and preliminary and final forest conservation plans to determine whether they are complete and correct, and shall acknowledge receipt of the application in writing by regular first class mail.

*(City Code, 1976/83, art. 9A, §3-3.) (Ord. 93-170.)*

**§ 42-5. Completeness of application.**

The Department shall consider a forest stand delineation, preliminary and final forest conservation plans, and afforestation plans complete if they contain all of the required information listed in the Baltimore City Forest Conservation Manual.

*(City Code, 1976/83, art. 9A, §3-4.) (Ord. 93-170.)*

**§ 42-6. Notification of completeness.***(a) To be given within 45 days.*

Within 45 calendar days after receipt of the forest stand delineation, the preliminary and final forest conservation plans, and the afforestation plan, the Department shall notify the applicant by mail whether the application is complete and correct or if additional information is required.



(b) *Effect of failure to notify.*

If the Department fails to notify the applicant within 45 days, any plan submitted shall be treated as complete and correct.

(c) *Additional information; extension of review.*

The Department may require further information or provide for an additional 15 calendar days for review of an application under extenuating circumstances.

(City Code, 1976/83, art. 9A, §3-5.) (Ord. 93-170.)

**§ 42-7. Declaration of intent.**

(a) *Required for exemption.*

A person seeking an exemption under § 41-4 of this Division IV shall file a declaration of intent with the Department.

(b) *Compliance with COMAR.*

The declaration of intent shall be as specified in COMAR 08.19.01.05.

(c) *Effective term.*

The declaration of intent is effective for 5 years.

(City Code, 1976/83, art. 9A, §3-7.) (Ord. 93-170.)

**§ 42-8. Area subject to calculations.**

If a person is applying for a grading or sediment and erosion control permit of an area between 20,000 square feet and 40,000 square feet in size, only the area of disturbance is subject to reforestation and afforestation calculations.

(City Code, 1976/83, art. 9A, §3-8.) (Ord. 93-170.)

**SUBTITLE 43**  
**FOREST STAND DELINEATION**

**§ 43-1. Time for submission.**

(a) *In general.*

A forest stand delineation for the affected area shall be submitted:

- (1) at the initial stages of subdivision or site plan approval;
- (2) before a grading permit application is submitted; or
- (3) before a sediment and erosion control application is submitted.

(b) *Effect of failure to submit.*

If the forest stand delineation is not submitted at this time, no action will be taken on the application request.

(City Code, 1976/83, art. 9A, §4-1.) (Ord. 93-170.)

**§ 43-2. Simplified delineation — when authorized.**

A simplified forest stand delineation may be submitted for an area:

- (1) when no forest cover will be disturbed during any construction activity;
- (2) when an area is designated to be protected under a long term protective agreement;
- (3) when there is no existing forest on the site; or

(4) when approved by the Department.

(City Code, 1976/83, art. 9A, §4-2.) (Ord. 93-170.)

**§ 43-3. Simplified delineation — requirements.**

The Department shall consider a simplified forest stand delineation complete if it includes:

- (1) a topographic map delineating intermittent and perennial streams and steep slopes over 25%;
- (2) a soils map;
- (3) location of 100-year floodplain; and

(4) any other information necessary for the Department to review the application.  
(*City Code, 1976/83, art. 9A, §4-3.*) (*Ord. 93-170.*)

**§ 43-4. Effective term.**

An approved forest stand delineation may remain in effect for a period not longer than 5 years.

**SUBTITLE 44**  
**FOREST CONSERVATION PLAN**

**§ 44-1. Preliminary plan.**

(a) *Concurrent review.*

The review of a preliminary forest conservation plan shall be concurrent with the review of the preliminary site plan.

(b) *Modifications.*

A preliminary forest conservation plan may be modified during the different stages of the review process, provided the Department approves the changes. (*City Code, 1976/83, art. 9A, §§5-1, 5-2.*) (*Ord. 93-170.*)

**§ 44-2. Retention of existing forest.**

In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site. If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Department how techniques for retention have been exhausted.

(*City Code, 1976/83, art. 9A, §6-1.*) (*Ord. 93-170.*)

**§ 44-3. Revocation of plan — grounds.**

The Department, its designee, or other responsible agency at the request of the Department, may revoke an approved forest conservation plan, including a reforestation and afforestation plan, if it finds that:

- (1) any provision of the plan has been violated;
- (2) approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
- (3) changes in the development or in the condition of the site necessitate preparation of a new or amended plan.

(*City Code, 1976/83, art. 9A, §6-2.*) (*Ord. 93-170.*)

**§ 44-4. Revocation of plan — notice and hearing.**

Prior to revoking approval of a forest conservation plan, the Department shall notify the owner and/or developer in writing and provide an opportunity for hearing before the Baltimore City Planning Commission.

(*City Code, 1976/83, art. 9A, §6-3.*) (*Ord. 93-170.*)

**§ 44-5. Cutting prohibited pending approval.**

If a forest conservation plan is required by this Division IV, a person shall not cut, clear, or grade on the development site until the Department has approved the plan.

(*City Code, 1976/83, art. 9A, §6-4.*) (*Ord. 93-170.*)

**§ 44-6. Alteration of plan.**

The plan cannot be altered without first obtaining approval from the Department.

(*City Code, 1976/83, art. 9A, §6-5.*) (*Ord. 93-170.*)

**SUBTITLE 45  
REFORESTATION AND AFFORESTATION**

**§ 45-1. Preference for retention.**

After every reasonable effort to minimize the cutting of trees and other woody plants is exhausted in the development of a subdivision plan, and/or grading and sediment control plans, the forest conservation plan shall provide for reforestation or afforestation.

(*City Code, 1976/83, art. 9A, §7-1.*) (*Ord. 93-170.*)

**§ 45-2. Required sequence.**

(a) *Definitions.*

(1) *Off-site.*

“Off-site” means not on the same property as the activity which is proposed, is occurring, or which has occurred.

(2) *On-site.*

“On-site” means the area located within the legal boundary of the property on which the regulated activity is proposed, is occurring, or has occurred.

(b) *Sequence for reforestation, etc.*

The required sequence for reforestation or afforestation, after techniques for retaining existing forest on the site have been exhausted, is as follows:

- (1) on-site reforestation or afforestation, as specified in the Baltimore City Forest Conservation Manual;
- (2) off-site reforestation or afforestation within the City shall be as specified for on-site reforestation; and

(3) payment into the City Forest Conservation Fund.  
(*City Code, 1976/83, art. 9A, §1-1(n), (o) and §7-2.*) (*Ord. 93-170.*)

**§ 45-3. Reforestation, etc., guidelines; time limits.**

(a) *Priority guidelines in Manual.*

Persons required to conduct reforestation or afforestation shall follow the priority guidelines outlined in the Baltimore City Forest Conservation Manual.

(b) *Period for reforestation, etc.*

A person required to conduct reforestation or afforestation under this Division IV shall accomplish the action within 1 year or 2 growing seasons following the issuance of a grading permit, allowing for phasing in the plan.  
(*City Code, 1976/83, art. 9A, §7-3.*) (*Ord. 93-170.*)

**§ 45-4. Security required.**

A person required to conduct afforestation or reforestation under this Division IV shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Department, as provided in the Baltimore City Conservation Supplement to the State Conservation Manual.  
(*City Code, 1976/83, art. 9A, §10-1.*) (*Ord. 93-170.*)

**SUBTITLE 46**  
**FOREST CONSERVATION FUND**

**§ 46-1. Forest Conservation Fund established.**

There is hereby created a Baltimore City Forest Conservation Fund.  
(*City Code, 1976/83, art. 9A, §9-1.*) (*Ord. 93-170.*)

**§ 46-2. When payments in lieu permitted.**

If neither reforestation nor afforestation is possible, the applicant may make payment into the Forest Conservation Fund. Payment may be accepted into the Conservation Fund under the following circumstances:

(1) reforestation or afforestation on site is technically infeasible; and

(2) an acceptable reforestation or afforestation site cannot be found on other land within Baltimore City.

(*City Code, 1976/83, art. 9A, §8-1.*) (*Ord. 93-170.*)

**§ 46-3. Contribution rate.**

A person permitted by § 46-2 of this subtitle to contribute to this fund in lieu of reforestation or afforestation shall make a payment to the Baltimore City Conservation Fund of 30¢ per square foot of the area requiring planting.

(*City Code, 1976/83, art. 9A, §9-2.*) (*Ord. 93-170.*)

**§ 46-4. When payable.**

Money contributed in lieu of reforestation shall be paid at the time of the issuance of the grading permit for the development project.

(*City Code, 1976/83, art. 9A, §9-3.*) (*Ord. 93-170.*)

**§ 46-5. Period for City reforestation, etc.**

(a) *Period for City action.*

The City shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or 3 growing seasons, as appropriate, after receipt of the money.

(b) *Refund.*

At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money.

(*City Code, 1976/83, art. 9A, §9-4.*) (*Ord. 93-170.*)

**§ 46-6. Management of Fund.****(a) *In general.***

Money contributed under this title:

- (1) may be used only for reforestation, including site identification, acquisition, preparation, management, and maintenance;
- (2) shall be deposited in a separate Forest Conservation Fund; and
- (3) shall not revert to the General Fund.

**(b) *Site selection.***

Sites selected for use of funds shall be located in the City of Baltimore.  
(*City Code, 1976/83, art. 9A, §9-5.*) (*Ord. 93-170.*)

**SUBTITLE 47  
VARIANCES****§ 47-1. “Variance” defined.**

“Variance” means the process of obtaining approval for a forest conservation plan that does not strictly conform to the standards and requirements set forth in this Division IV.  
(*City Code, 1976/83, art. 9A, §1-1(x).*) (*Ord. 93-170.*)

**§ 47-2. When authorized.**

Variances from this Division IV may be granted by the Planning Commission, if the applicant demonstrates that enforcement would result in unwarranted hardship to the applicant.  
(*City Code, 1976/83, art. 9A, §11-1.*) (*Ord. 93-170.*)

**§ 47-3. Applications.**

An applicant for a variance shall:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
- (3) verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;



- (4) verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;
  - (5) verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
  - (6) such other criteria that the Planning Commission may set by rule and regulation.
- (City Code, 1976/83, art. 9A, §11-2.) (Ord. 93-170.)*

**SUBTITLE 48**  
**ENFORCEMENT; PENALTIES**

**§ 48-1. HCD to enforce.**

The provisions of this Division IV shall be enforced by the Commissioner of the Department of Housing and Community Development in the manner provided in § 105.0 of the Baltimore City Building Code.  
(*City Code, 1976/83, art. 9A, §12-1(a).*) (*Ord. 93-170.*)

**§ 48-2. Fines.**

(a) *Imposition.*

A person found to be in noncompliance with this Division IV, or the regulations adopted thereunder, the forest conservation plan, or the associated 2-year maintenance agreement, shall be fined a penalty of 60¢ per square foot of the area found to be in noncompliance with required forest conservation.

(b) *Use of funds.*

Money collected under subsection (a) of this section shall be deposited in the Forest Conservation Fund established by the Director of Finance, and may be used by the City for purposes related to implementing this Division IV.  
(*City Code, 1976/83, art. 9A, §12-1(b), (c).*) (*Ord. 93-170.*)

**§ 48-3. Civil penalties.**

(a) *In general.*

In addition, any person who violates any provision of this Division IV or any regulation or order adopted or issued thereunder, is liable for a penalty not exceeding \$1,000 per violation, which may be recovered in a civil action brought by the City.

(b) *Each day a separate offense.*

Each day a violation continues is a separate violation.  
(*City Code, 1976/83, art. 9A, §12-2.*) (*Ord. 93-170.*)

**§ 48-4. Injunctions.**

The Department may request the City Solicitor to seek an injunction requiring a person to cease violation of this title and to take corrective action to restore or reforest an area.  
(*City Code, 1976/83, art. 9A, §12-3.*) (*Ord. 93-170.*)